

UNITED STATES DISTRICT COURT
Northern District of California
280 South First Street
San Jose, California 95113

www.cand.uscourts.gov

Richard W. Wieking
Clerk

General Court Number
408.535.5364

July 11, 2005

United States District Court
2300 United States Courthouse
One Courthouse Way
Boston, MA., 02210-3002

RWZ
05 - 11499 PBS

RE: CV 04-04994 JW JDS UNIPHASE CORPORATION-v-DAVID M. KORNACKI ET AL
Dear Clerk,

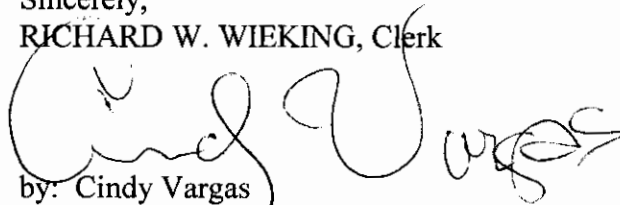
Pursuant to an order transferring the above captioned case to your court, transmitted herewith
are:

- (X) Certified copy of docket entries
- (X) Certified copy of TRANSFERRAL ORDER
- (X) Original case file documents

(X) Please be advised that the above entitled action was previously designated to the
Electronic Case Filing program. You can access electronically filed documents through PACER
referencing the Northern District of California case number at <https://ecf.cand.uscourts.gov>

Please acknowledge receipt of the above documents on the attached copy of this letter.

Sincerely,
RICHARD W. WIEKING, Clerk


by: Cindy Vargas
Case Systems Administrator

Enclosures
Copies to counsel of record

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

lr6
FILED

JAN 14 2005

JDS UNIPHASE CORPORATION)
BENEFITS COMMITTEE OF THE)
JDS UNIPHASE CORPORATION)
EMPLOYEE 401(K) RETIREMENT)
PLAN,)

Plaintiff)

vs.)

DAVID M. KORNACKI, ET AL)
Defendant)

CIVIL ACTION NO. 04-04994 RS

MOTION FOR CHANGE OF VENUE

Now comes the defendant, Mabel Tavares and moves that the Court transfer this case to the United States District Court for the District of Massachusetts, Western Division, and as grounds therefore states:

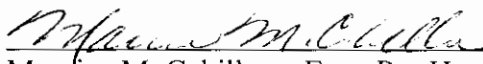
1. The subject of this controversy arises out of events which occurred in the Commonwealth of Massachusetts, and involves almost exclusively litigants and witnesses who reside in Massachusetts.
2. This is an action for declaratory judgment brought under 29 U.S.C. § 1132 (ERISA). As the complaint shows on its face, this action involves the 401k plan of a Kevin Kornacki, now deceased and previously a resident of Massachusetts, and previously employed by the plaintiff in Connecticut, while living in Massachusetts.
3. The complaint concerns a dispute as to rights in the balance of the deceased, Kevin Kornacki's 401k plan with the plaintiff. All of the other defendants in this action are from Massachusetts and presently reside there. (See Complaint, Exhibit 4.) The dispute

revolves primarily around a Qualified Domestic Relations Order issued in September, 2002 by the Probate and Family Court of the Commonwealth of Massachusetts. (See Complaint, paragraphs 1,2, and 3.)

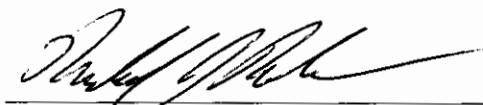
4. The sole party from outside of Massachusetts, JDS, brings this action essentially as a stakeholder, to resolve a dispute between the defendants. All of the material witnesses will be from Massachusetts. JDS does not itself have an interest in the merits of the dispute, it seeks only to avoid double payment of benefits.
5. Under 29 U.S.C. § 1132 (e)(2), this action could have been brought in Massachusetts under 28 U.S.C. § 1404(2). The defendant, Mabel Tavares, requests that this matter be transferred in the District of Massachusetts, Western Division, where the interested parties reside.

DEFENDANT, MABEL TAVARES,
BY HER ATTORNEY

Dated: 1/10/05


Maurice M. Cahillane, Esq., Pro Hac Vice
Egan, Flanagan and Cohen, P.C.
67 Market Street, P.O. Box 9035
Springfield, MA 01102-9035
(413) 737-0260; Fax: (413) 737-0121

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Michael J. Richter, Esq.
2072 The Alameda
San Jose, CA 95126
(408) 615-5300; Fax (408) 615-5303

CERTIFICATE OF SERVICE

I, Maurice M. Cahillane, hereby certifies that on January 14, 2005 a true copy of the above document was served upon the attorney of record for each other party, by mailing first class mail, postage prepaid to:

Hope A. Case, Esq.
Ray M. Hartman, III, Esq.
Gray, Cary, Ware & Freidenrich, LLP
4365 Executive Drive, Suite 1100
San Diego, CA 92101-4297

Charles L. Deem, Esq.
Gray, Cary, Ware & Freidenrich, LLP
401 B Street, Suite 1700
San Diego, CA 92101-4297

Theodore F. Glockner, Esq.
Crevier & Ryan, LLP
1500 Main Street, Suite 2200
Springfield, MA 01115-5727


Maurice M. Cahillane, Esq.

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